
ENSURING INTEGRITY OF INDIAN ELECTIONS: THE ROLE OF THE ELECTION

Nehal Dewani & Diya Jain, Symbiosis Law School, Nagpur

ABSTRACT

The Indian Election Commission, a constitutional authority, is critical to maintaining the democratic values of the world's largest democracy. This research paper goes into the Election Commission's diverse role and responsibilities in India, highlighting its critical mandate of conducting free, fair, and credible elections. The study examines the Commission's historical growth, constitutional base, and legislative powers and functions, emphasizing its autonomy and independence as critical pillars of the democratic process.

The study examines the Election Commission's varied responsibilities, such as constituency delimitation, voter registration, candidate nomination, campaign monitoring, and result declaration. It explores the Commission's efforts to facilitate inclusive and accessible elections by addressing issues such as voter suppression, voter education, and electronic voting system management.

The function of the Election Commission in implementing the Model Code of Conduct is an important tool for upholding ethical standards throughout electoral campaigns. It also outlines the Commission's role in resolving election disputes, recounting ballots, and disputing results to ensure that electoral procedures are transparent and fair.

Finally, this research study emphasizes the Election Commission's critical role and obligations as a promoter of democracy in India. It is a model for electoral commissions around the world, demonstrating how an independent and powerful organization may promote transparent, trustworthy, and active democratic processes. This study contributes to a better understanding of the Election Commission's vital role in sustaining democratic values in a nation like India by conducting a detailed analysis of its roles, responsibilities and functions which ensures transparency, fair elections and integrity of the election commission.

Keywords: Election Commission, Democracy, Transparency, Criminalisation, Delimitation, Campaigning, Conviction, Policies.

Introduction:

India's election procedures are monitored by the Election Commission of India, an independent constitutional body. It oversees Indian presidential and vice-presidential elections as well as the Lok Sabha, Rajya Sabha and state assemblies. In accordance with Article 324 of the Constitution, the Election Commission is empowered to carry out its duties. Therefore, the Representation of the People Act was enacted.

India's Election Commission is a joint body of the Central and State governments. Municipal and panchayat elections in the state are not regulated by the commission. This resulted in the establishment of a State Election Commission under the Indian Constitution.

An independent and very powerful election commission (EC) oversees elections in our nation. It enjoys the same level of independence as the judicial system. The Indian President appoints the CEC, or Chief Election Commissioner.

The Chief Election Commissioner, however, is not accountable to the President or the administration once they have been appointed. It is almost impossible for the ruling party or government to fire the CEC, even if it disagrees with what the Commission does.

The Election Commission of India is one of the few election commissions in the world with such broad authority.

History:

The Election Commission was established in 1950 and The Chief Election Commissioner (CEC) was the single member of the electoral commission from the time it was established until 1989.

On October 16, 1989, the voting age was lowered from 21 to 18. As the election commission's workload increased, the president nominated two additional commissioners. Since then, the Election Commission has been a multi-member body comprised of three election commissioners.

The positions of two election commissioners were withdrawn in January 1990, and the Election Commission reverted to its original structure. A similar shift occurred in October 1993, when

the president nominated two more election commissioners. Since then, the Election Commission has been led by three commissioners.

The chief and the two other election commissioners have the same powers and emoluments, including salaries, as a Supreme Court judge.

If the Chief Election Commissioner and two other election commissioners disagree, the question is settled by the Commission by a majority vote.

They hold the post for a six-year term or until they reach the age of 65, whichever comes first. They can also be dismissed or resigned at any moment before their tenure expires.

In the last fifteen years or more, the Election Commission has begun to exercise and even increase its authority. It is becoming fairly normal for the Election Commission to take on the government and administration for their mistakes. When election officials believe that polling in some booths or possibly an entire constituency was unfair, they request a re-vote. The ruling parties frequently oppose the EC's actions. But they must obey. This would not have occurred if the EC had not been independent and powerful.

Functions:

- ❑ In India, the Election Commission is in charge of overseeing and managing the entire election process for state legislatures, the national parliament, and the seats of President and Vice-President.
- ❑ The Election Commission is in charge of setting the dates for regular and extraordinary elections and ensuring that they are held on time. They also decide where polling stations will be located, how voters will be assigned to them, where the votes will be counted, and make the necessary arrangements for polling stations and counting centres, as well as manage any other connected problems.
- ❑ Preparing the Electoral roll and issuing an Electronic Photo Identity Card (EPIC).
- ❑ Granting political parties status and allocating election emblems, as well as resolving associated conflicts.

- To establish campaign spending restrictions for all political parties and to monitor compliance with those limits.
- To provide advice on post-election disqualification of members of Parliament and state legislatures.
- During elections, the Election Commission produces a set of recommendations known as the Model Code of Conduct for Political Parties and Candidates. This is to prevent anyone from using unfair tactics or abusing their office for personal or political benefit.

Also, in the case of **Election Commission of India v/s.Ashok Kumar**¹, the Election Commission appealed a Returning Officer's choice to approve the candidature of a candidate whose nomination papers contained purportedly falsified signatures. The Election Commission's obligation to maintain an impartial and open electoral process, as well as the principles of electoral integrity, were at the centre of the case. An important precedent for the Election Commission's role in protecting the integrity of the electoral process was set when the Supreme Court ruled that the EC's ability to examine and reject nomination papers in cases of fraud or forgery is necessary to preserve democratic values and the credibility of elections.

Constitutional Provisions:

- **Article 324:** This article broadly outlines the functions and composition of the Election Commission.
- **Article 325:** For elections to both Houses of Parliament and State legislatures, it specifies that there should be a single electoral roll for each territorial constituency. In order to ensure equality among citizens, it highlights that no one may be removed from the electoral roll on the basis of characteristics like gender, caste, race, or religion.
- **Article 326:** The basis for elections to the State Legislative Assemblies and Lok Sabha is established in this article with adult suffrage.

¹ Election Commission of India v/s.Ashok Kumar 2000 SCC Online SC 1234.

- **Article 327:** The power to pass laws pertaining to elections to the federal and state legislatures is granted to Parliament.
- **Article 328:** States may enact legislation governing elections for their legislatures within the authority granted by this article.
- **Article 329:** It prohibits courts from becoming involved in election-related issues. It states that no court will hear a dispute to the legality of any legislation pertaining to the division of constituencies or the distribution of seats among them. It further states that the only way to contest an election for the Parliament or State Legislatures is by filing an election petition. A candidate or elector who feels there was electoral wrongdoing may file an election petition. These petitions may only be submitted before the Supreme Court for the offices of the President and Vice President, and only before the High Court for elections to State Legislatures and Parliament.

In the case of **N. P. Ponnuswami vs. The Returning Officer, 1952**², the Apex Court of India maintained that the Returning Officer's decisions about accepting or rejecting a nomination document in an election are exempt from judicial scrutiny. The notion that the Election Commission's rulings in such circumstances are final and cannot be challenged in court was established by this historic case. It affirmed the Election Commission's independence and jurisdiction in organising, managing, and directing elections in India.

Roles and Responsibilities of the Election Commission of India:

☐ **Administrative powers**

1. drawing national electoral constituency lines in compliance with the Delimitation Commission Act of Parliament.
2. Ensuring all eligible voters are registered by maintaining and updating electoral rolls on a regular basis.

² N. P. Ponnuswami vs. The Returning Officer (1952) 1 SCC 94.

3. releasing the schedule and dates for the elections and carefully reviewing the nomination papers.
4. recognising political parties and giving them electoral emblems.
5. functioning as a court to settle disagreements over political party recognition and electoral symbol distribution. The fairness and integrity of India's voting process depend heavily on these functions.

□ **Ensuring fair and just elections**

Organising elections is a major responsibility of the Election Commission of India (ECI). Its primary duty is to ensure that elections are held impartially and fairly, in compliance with the law and a set of rules known as the Model Code of Conduct. Political parties and candidates are given precise guidelines on how to conduct themselves during elections in this Model Code of Conduct. The ECI first presented the Model Code of Conduct during the Fifth Election in 1971, and it has since been modified on a regular basis to take into account evolving requirements and conditions.

A Model Code of Conduct must be followed to guarantee that elections are handled impartially and fairly that elections are handled impartially and fairly. It's crucial to remember that this code has persuasive power but isn't based on any one law. There are things in it that are called "electoral morality rules." Article 324 gives the Election Commission the power to enforce it even in the absence of a solid legal basis. These are a few standard guidelines found in this code-

- All Parties Must Have Equal Access to Public Facilities: No party may control all helipads, public areas, or aeroplanes. Under the same guidelines as the governing party, candidates from other parties are allowed to use them.
- Appealing to voters based on their caste or religion is forbidden for political parties and candidates. That being said, no political propaganda or advertising may be conducted out of temples, mosques, churches, or other places of worship.

- **Restriction on Government Resources:** During election campaigns, ruling party ministers are prohibited from using government assets for their political activity, including staff members, vehicles, and offices.
- **Prohibitions against Intimidation and Bribery:** It is strictly banned to engage in activities such as intimidating voters, bribing voters, conducting public gatherings within 48 hours of elections, campaigning within 100 metres of polling places and offering transportation to and from polling places.
- **Prior approval for Campaigning:** In order to guarantee that the essential arrangements for traffic and other matters are made, political parties and candidates must first secure clearance from the appropriate authorities or local law enforcement before holding meetings.

Nonetheless, there are examples of political parties breaking the code, and complaints are filed about candidates abusing their positions of authority.

The Commission found Mr Narendra Modi and Ms Sonia Gandhi culpable for breaking the Model Code of Conduct by making divisive statements during the Gujarat Assembly election campaign in 2007.

The Kerala High Court ruled in **I.D. Systems (India) Pvt. Ltd. v/s. Chief Election Commissioner**³ that the goal of the model code of conduct is not to prohibit all government actions, but rather to limit those that could directly affect a certain group of voters.

Such a code is necessary to ensure free and fair elections. Nevertheless, there is no explicit statutory foundation for the code. It alone has the power to persuade. The "rules of electoral morality" are contained in it. However, the Commission is still able to enforce it despite its lack of legal support. Under Article 324, it is able to impose a drawing force.

In the case of **T. N. Sheshan V/s Union of India**⁴ some aspects of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Rules, 1992 were contested as unconstitutional by the former Chief Election Commissioner of India. He

³ I.D. Systems (India) Pvt. Ltd. v/s. Chief Election Commissioner AIR 2006 Ker 229.

⁴ T. N. Sheshan V/s Union of India (1995) 4 SCC 611.

maintained that these regulations limited the Chief Election Commissioner's authority and independence. The integrity of India's elections was significantly impacted by the Supreme Court's historic decision to uphold the Chief Election Commissioner's primacy and autonomy. This decision also strengthened the Election Commission's independence and oversight authority over the electoral process.

☐ **Registering Political Parties**

Surprisingly, the Indian Constitution makes no explicit reference to political parties, despite the fact that the party system is an essential component of parliamentary democracy. In 1989, a somewhat flexible legal framework pertaining to political party registration was established. But because of this flexibility, a sizable number of frivolous or less serious parties registered with the Election Commission. After registering, several of these parties didn't even take part in the election, leaving people unsure of whom to support. The Election Commission was forced to enact strict regulations in order to address this issue and stop the spread of these parties.

Currently, a political party can apply for registration with the Commission if it has 100 or more registered voters as members. There is a small filing fee of Rs 10,000. This charge assists in defraying the administrative expenses incurred in communicating with these parties after their registration.

Furthermore, in compliance with their party constitutions, registered political parties must organise periodical organisational elections as required by the Election Commission to guarantee that they maintain democratic ideals in their internal operations. This prerequisite was put in place to encourage democracy and openness inside these political groups.

☐ **Verifying and disclosing all prior criminal records**

Concern over the increasing number of people with criminal records participating in politics has been highlighted by the Election Commission. They have created policies and given advice to the government in response to this matter in order to address the issue of criminalization in politics. All political parties have been encouraged by the Commission to reach an agreement so that members who have a criminal record would not be nominated as candidates.

In an attempt to support this endeavour, applicants for office must complete an official affidavit in which they must reveal any criminal history, including prior convictions, pending legal actions, or cases that have been brought against them. The public, as well as print and electronic media sources, can then access the material that the candidates have supplied. By taking this action, voters will be better informed about the candidates' backgrounds and more transparency will result.

□ **Limitation On Poll Expenses**

To mitigate the growing impact of money in electoral campaigns and the conspicuous consumption of wealth, the Election Commission (EC) has set legally-mandated spending caps for candidates. To take into account evolving conditions, these limitations are periodically modified. To keep an eye on each candidate's particular report of the expenses they incurred during the campaign, the EC also hires expenditure watchers. Before the election results are made public, candidates have thirty days to submit a thorough accounting of their campaign expenditures. The Election Commission also favours cutting the campaign time from 21 to 14 days and holding simultaneous Lok Sabha and Assembly elections. By reducing election costs, this modification is thought to help make the electoral process more economical.

□ **Use of technological advancements to ensure transparency and eliminate malpractices**

By utilising scientific and technical breakthroughs, the Election Commission of India has been actively attempting to improve election procedures. With the goal of decreasing irregularities and increasing efficiency, the advent of Electronic Voting Machines (EVMs) marked a significant turning point in this direction. The state of Kerala conducted the first experiments using EVMs during the 1982 Legislative Assembly Elections.

The Election Commission took the momentous choice to move forward with the use of EVMs following the conclusion of successful trials and legal investigations. The Election Commission established its own website on February 28, 1998, which may be found at www.eci.gov.in, in keeping with its embrace of information technology. This website is essential for delivering timely election results, accurate information, and streamlined management and administration. To further modernise the election process, the Election Commission also launched a programme in 1998 to computerise electoral rolls, which was a

significant step.

Case Laws

□ **Election Commission of India vs. Saka Venkata Rao (1953)**⁵

The Supreme Court of India affirmed the Election Commission's jurisdiction to decide whether to disqualify an individual from participating in elections in this particular case. In addressing issues pertaining to electoral disputes and disqualifications, it upheld the Election Commission's independence and authority, underscoring the crucial role the Commission plays in guaranteeing free and fair elections across the nation. India's election system and the Election Commission's operation have been significantly impacted by this case.

□ **Smt. Indira Nehru Gandhi vs. Shri Raj Narayan**⁶

Raj Narayan, the opponent of then-Prime Minister Indira Gandhi, contested her election in this case, which was heard by the Allahabad High Court in 1975. She was temporarily barred from holding public office after the court found her guilty of electoral misconduct and ruled that her election was invalid. A state of emergency was imposed in India as a result of this historic case, which also had a major impact on constitutional and legal developments and Indian politics.

□ **Shri Kihota Hollohon vs. Mr. Zachilhu and Others (1992)**⁷

The Tenth Schedule of the Indian Constitution, which is an anti-defection law, allows for judicial review of defections by elected members, the Supreme Court decided. The ruling significantly contributed to the preservation of the integrity and stability of India's democratic system by upholding the Election Commission's jurisdiction to disqualify legislators for defecting. The significance of upholding the anti-defection law's integrity in a democratic society was underscored.

□ **Union of India v. Association for Democratic Reforms**⁸

This case revolves around the transparency and integrity of the Election Commission and

⁵ Election Commission of India vs. Saka Venkata Rao 1953 AIR 210.

⁶ Smt. Indira Nehru Gandhi vs. Shri Raj Narayan 1975 SCC (2) 159.

⁷ Shri Kihota Hollohon vs. Mr. Zachilhu and Others 1992 SCR (1) 686.

⁸ Union of India v. Association for Democratic Reforms 2000 AIR 2112.

electoral candidates. According to the Association for Democratic Reforms, in order to promote more informed voting, candidates ought to be compelled to reveal their financial resources, criminal histories, and educational histories. The importance of election transparency was highlighted by a landmark ruling rendered by the Supreme Court of India. Making sure that voters have access to important information when making decisions is the mandate of the verdict, which requires candidates to provide these details to the Election Commission. By giving voters the tools they need to make educated decisions, this ruling strengthened India's democratic values. It also fostered accountability.

Analysis

The Election Commission of India's development into a strong, independent organisation that defends democracy's fundamental values is reflected in its journey. India's democratic landscape is greatly enhanced by its flexibility, creative solutions, and steadfast dedication to justice and openness. Upholding the democratic values entrenched in the Constitution is vital, as evidenced by the EC's continuous evolution and its crucial role in supervising India's elections.

In order to protect the democratic values of openness, honesty, and justice in the nation's electoral process, the Election Commission of India has developed into a strong, independent constitutional entity. The relevance and impact of the EC on India's democracy are underscored by its historical trajectory, constitutional provisions, and seminal decisions. Since the Commission enjoys the same level of independence as the courts, it is a powerful organisation. It is difficult for the ruling party or government to influence the Chief Election Commissioner (CEC) decisions because the CEC is chosen by the President and is not answerable to the administration. Among electoral commissions worldwide, the EC has some of the most expansive powers. For the Indian elections to remain unbiased and credible, this independence is crucial.

The Election Commission has evolved over the course of its existence to accommodate the changing requirements of India's democracy. Its responsibilities cover a wide range of crucial election administration tasks. Through the creation of electoral constituencies, the upkeep of voter rolls, and the implementation of programmes like electronic voting machines (EVMs) and computerised voter lists, the EC oversees fair elections. The EC has demonstrated its commitment to equity by ordering revotes over resistance from ruling parties.

Additionally, through enforcing stringent laws and campaign expenditure caps, the EC seeks to reduce the influence of money in politics. By forcing candidates to reveal their financial assets, outstanding legal cases, and criminal histories, it has also taken the lead in the fight against criminalization in politics. In addition to fostering transparency, these activities provide voters the ability to make knowledgeable judgements.

Conclusion:

To improve election fairness and deepen democracy, the Commission has carried out a number of commendable electoral changes over the years. By employing cutting-edge technology, the commission has taken the best possible measures to prevent electoral fraud. Nonetheless, the people's perception of democracy will increase as a result of the Election Commission's efforts. Ensuring fairness, openness, and integrity in the voting process, the Election Commission of India is a cornerstone of Indian democracy. Maintaining the democratic principles stated in the Constitution requires this autonomy in order to prevent undue influence on the electoral process. As a sign of its dedication to justice and openness, the Election Commission frequently challenges the parties in power and calls for new elections when appropriate.

Additionally, the EC works to lessen the influence of money in politics by capping candidates' expenditures and demanding financial assets, litigation, and criminal record disclosure. By giving voters thorough knowledge about the candidates, these initiatives enable voters. The Commission has a wide range of responsibilities, which include computerised voter lists and electronic voting machines (EVMs) in addition to managing voter rolls and defining constituencies. Registering and supervising political parties is one of the Commission's most important roles. Party activities must adhere to democratic principles, and one of the conditions that the Commission makes sure parties satisfy is holding regular internal elections.

To improve election fairness and deepen democracy, the Commission has carried out a number of commendable electoral changes over the years. By employing cutting-edge technology, the commission has taken the best possible measures to prevent electoral fraud. Nonetheless, the people's perception of democracy will increase as a result of the Election Commission's efforts.

References:

- <https://lawfaculty.in/uoi-v-association-for-democratic-reforms-2002-air-2112/>
- Election Commission : Role and Responsibilities analysis Issues and Analysis @ abhipedia Powered by ABHIMANU IAS
- Election Commission of India: Powers, Functions and Responsibilities - Civildaily
- Role Of Election Commission
- <https://blog.ipleaders.in/election-commission-india/>
- <https://www.legalserviceindia.com/legal/article-2032-election-commission-of-india-articles-324-to-329-.html>